S. 359

To provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

February 10, 2005

Mr. Craig (for himself, Mr. Kennedy, Mr. Hagel, Mr. Specter, Mr. Lautenberg, Mr. Voinovich, Mr. Schumer, Mr. Lugar, Mr. Durbin, Mr. Coleman, Mr. Kerry, Mr. McCain, Mr. Dodd, Mr. Cochran, Mr. Domenici, Ms. Cantwell, Mr. DeWine, Mr. Lieberman, Mr. Burns, Mrs. Boxer, Mr. Roberts, Mr. Leahy, Mr. Hatch, Mr. Akaka, Mr. Lott, Mr. Nelson of Nebraska, Mr. Brownback, Mr. Levin, Mr. Stevens, Mr. Wyden, Mr. Martinez, Mr. Salazar, Mr. Chafee, and Mrs. Murray) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

- To provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.
 - 1 Be it enacted by the Senate and House of Representa-
 - 2 tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- 2 (a) SHORT TITLE.—This Act may be cited as the
- 3 "Agricultural Job Opportunities, Benefits, and Security
- 4 Act of 2005".
- 5 (b) Table of Contents for
- 6 this Act is as follows:
 - Sec. 1. Short title; table of contents.
 - Sec. 2. Definitions.

TITLE I—ADJUSTMENT TO LAWFUL STATUS

- Sec. 101. Agricultural workers.
- Sec. 102. Correction of Social Security records.

TITLE II—REFORM OF H-2A WORKER PROGRAM

Sec. 201. Amendment to the Immigration and Nationality Act.

TITLE III—MISCELLANEOUS PROVISIONS

- Sec. 301. Determination and use of user fees.
- Sec. 302. Regulations.
- Sec. 303. Effective date.

7 SEC. 2. DEFINITIONS.

- 8 In this Act:
- 9 (1) AGRICULTURAL EMPLOYMENT.—The term
- 10 "agricultural employment" means any service or ac-
- tivity that is considered to be agricultural under sec-
- tion 3(f) of the Fair Labor Standards Act of 1938
- 13 (29 U.S.C. 203(f)) or agricultural labor under sec-
- tion 3121(g) of the Internal Revenue Code of 1986
- 15 (26 U.S.C. 3121(g)). For purposes of this para-
- 16 graph, agricultural employment includes employment
- under section 101(a)(15)(H)(ii)(a) of the Immigra-

- tion and Nationality Act (8 U.S.C.
 1101(a)(15)(H)(ii)(a)).
- 3 (2) EMPLOYER.—The term "employer" means 4 any person or entity, including any farm labor con-5 tractor and any agricultural association, that em-6 ploys workers in agricultural employment.
 - (3) Job opportunity.—The term "job opportunity" means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.
 - (4) Secretary.—The term "Secretary" means the Secretary of Homeland Security.
 - (5) Temporary.—A worker is employed on a "temporary" basis where the employment is intended not to exceed 10 months.
 - (6)STATES WORKER.—The United "United States worker" means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted otherwise provided status under section or101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

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1	(7) Work day.—The term "work day" means
2	any day in which the individual is employed 1 or
3	more hours in agriculture consistent with the defini-
4	tion of "man-day" under section 3(u) of the Fair
5	Labor Standards Act of 1938 (29 U.S.C. 203(u)).
6	TITLE I—ADJUSTMENT TO
7	LAWFUL STATUS
8	SEC. 101. AGRICULTURAL WORKERS.
9	(a) Temporary Resident Status.—
10	(1) In general.—Notwithstanding any other
11	provision of law, the Secretary shall confer upon an
12	alien who qualifies under this subsection the status
13	of an alien lawfully admitted for temporary residence
14	if the Secretary determines that the alien—
15	(A) has performed agricultural employment
16	in the United States for at least 575 hours or
17	100 work days, whichever is less, during any 12
18	consecutive months during the 18-month period
19	ending on December 31, 2004;
20	(B) applied for such status during the 18-
21	month application period beginning on the first
22	day of the seventh month that begins after the
23	date of enactment of this Act; and
24	(C) is otherwise admissible to the United
25	States under section 212 of the Immigration

- and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).
 - (2) Authorized travel.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.
 - (3) Authorized employment.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien shall be provided an "employment authorized" endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.
 - (4) Termination of temporary resident status.—
 - (A) In GENERAL.—During the period of temporary resident status granted an alien under this subsection, the Secretary may terminate such status only upon a determination under this Act that the alien is deportable.
 - (B) GROUNDS FOR TERMINATION OF TEM-PORARY RESIDENT STATUS.—Before any alien becomes eligible for adjustment of status under

1	subsection (c), the Secretary may deny adjust-
2	ment to permanent resident status and provide
3	for termination of the temporary resident status
4	granted such alien under paragraph (1) if—
5	(i) the Secretary finds, by a prepon-
6	derance of the evidence, that the adjust-
7	ment to temporary resident status was the
8	result of fraud or willful misrepresentation
9	(as described in section 212(a)(6)(C)(i) of
10	the Immigration and Nationality Act (8
11	U.S.C. $1182(a)(6)(C)(i)$; or
12	(ii) the alien—
13	(I) commits an act that makes
14	the alien inadmissible to the United
15	States as an immigrant, except as
16	provided under subsection (e)(2); or
17	(II) is convicted of a felony or 3
18	or more misdemeanors committed in
19	the United States.
20	(5) Record of Employment.—
21	(A) In general.—Each employer of a
22	worker granted status under this subsection
23	shall annually—
24	(i) provide a written record of employ-
25	ment to the alien; and

1	(ii)	provide	a	copy	of	such	record	to
2	the Secr	etary.						

- 3 (B) SUNSET.—The obligation under sub-4 paragraph (A) shall terminate on the date that 5 is 6 years after the date of enactment of this 6 Act.
- 7 (b) Rights of Aliens Granted Temporary Resi-8 dent Status.—
 - (1) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a), such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).
 - (2) Delayed eligibility for certain federal Public Benefits.—An alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a) as described in paragraph (1) shall not be eligible, by reason of such acquisition of that status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5

- years after the date on which the Secretary confers temporary resident status upon that alien under subsection (a).
 - (3) Terms of employment respecting aliens admitted under this section.—
 - (A) Prohibition.—No alien granted temporary resident status under subsection (a) may be terminated from employment by any employer during the period of temporary resident status except for just cause.

(B) Treatment of complaints.—

(i) Establishment of process.—
The Secretary shall establish a process for the receipt, initial review, and disposition in accordance with this subparagraph of complaints by aliens granted temporary resident status under subsection (a) who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

1 (ii) Initiation of arbitration.—If 2 the Secretary finds that a complaint has been filed in accordance with clause (i) and 3 there is reasonable cause to believe that the complainant was terminated without 6 just cause, the Secretary shall initiate 7 binding arbitration proceedings by request-8 ing the Federal Mediation and Conciliation 9 Service to appoint a mutually agreeable arbitrator from the roster of arbitrators 10 11 maintained by such Service for the geo-12 graphical area in which the employer is lo-13 cated. The procedures and rules of such 14 Service shall be applicable to the selection 15 of such arbitrator and to such arbitration 16 proceedings. The Secretary shall pay the 17 fee and expenses of the arbitrator, subject 18 to the availability of appropriations for 19 such purpose. 20 (iii) Arbitration proceedings.— 21

(iii) Arbitration proceedings.—
The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes.

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The arbitrator shall make findings respect-1 2 ing whether the termination was for just 3 cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a prepon-6 derance of the evidence. If the arbitrator 7 finds that the termination was not for just 8 cause, the arbitrator shall make a specific 9 finding of the number of days or hours of 10 work lost by the employee as a result of 11 the termination. The arbitrator shall have 12 no authority to order any other remedy, in-13 cluding, but not limited to, reinstatement, 14 back pay, or front pay to the affected em-15 ployee. Within 30 days from the conclusion 16 of the arbitration proceeding, the arbi-17 trator shall transmit the findings in the 18 form of a written opinion to the parties to 19 the arbitration and the Secretary. Such 20 findings shall be final and conclusive, and 21 no official or court of the United States 22 shall have the power or jurisdiction to re-23 view any such findings.

> (iv) Effect of Arbitration findings.—If the Secretary receives a finding

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of an arbitrator that an employer has terminated an alien granted temporary resident status under subsection (a) without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

- (v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.
- (vi) Nonexclusive remedy.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.
- (vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, admin-

State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted temporary resident status under subsection (a) has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed \$1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has

1	provided the employer with evidence of em-
2	ployment authorization granted under this
3	section.
4	(c) Adjustment to Permanent Residence.—
5	(1) AGRICULTURAL WORKERS.—
6	(A) In general.—Except as provided in
7	subparagraph (B), the Secretary shall adjust
8	the status of an alien granted lawful temporary
9	resident status under subsection (a) to that of
10	an alien lawfully admitted for permanent resi-
11	dence if the Secretary determines that the fol-
12	lowing requirements are satisfied:
13	(i) QUALIFYING EMPLOYMENT.—The
14	alien has performed at least 360 work days
15	or 2,060 hours, but in no case less than
16	2,060 hours, of agricultural employment in
17	the United States, during the 6-year period
18	beginning after the date of enactment of
19	this Act.
20	(ii) Qualifying years.—The alien
21	has performed at least 75 work days or
22	430 hours, but in no case less than 430
23	hours, of agricultural employment in the
24	United States in at least 3 nonoverlapping
25	periods of 12 consecutive months during

1	the 6-year period beginning after the date
2	of enactment of this Act. Qualifying peri-
3	ods under this clause may include non-
4	consecutive 12-month periods.
5	(iii) Qualifying work in first 3
6	YEARS.—The alien has performed at least
7	240 work days or 1,380 hours, but in no
8	case less than 1,380 hours, of agricultural
9	employment during the 3-year period be-
10	ginning after the date of enactment of this
11	Act.
12	(iv) APPLICATION PERIOD.—The alien
13	applies for adjustment of status not later
14	than 7 years after the date of enactment
15	of this Act.
16	(v) Proof.—In meeting the require-
17	ments of clauses (i), (ii), and (iii), an alien
18	may submit the record of employment de-
19	scribed in subsection (a)(5) or such docu-
20	mentation as may be submitted under sub-
21	section $(d)(3)$.
22	(vi) DISABILITY.—In determining
23	whether an alien has met the requirements
24	of clauses (i), (ii), and (iii), the Secretary

shall credit the alien with any work days

1	lost because the alien was unable to work
2	in agricultural employment due to injury
3	or disease arising out of and in the course
4	of the alien's agricultural employment, if
5	the alien can establish such disabling in-
6	jury or disease through medical records.
7	(B) Grounds for denial of adjust-
8	MENT OF STATUS.—The Secretary may deny an
9	alien adjustment to permanent resident status,
10	and provide for termination of the temporary
11	resident status granted such alien under sub-
12	section (a), if—
13	(i) the Secretary finds by a prepon-
14	derance of the evidence that the adjust-
15	ment to temporary resident status was the
16	result of fraud or willful misrepresentation,
17	as described in section 212(a)(6)(C)(i) of
18	the Immigration and Nationality Act (8
19	U.S.C. $1182(a)(6)(C)(i)$; or
20	(ii) the alien—
21	(I) commits an act that makes
22	the alien inadmissible to the United
23	States under section 212 of the Immi-
24	gration and Nationality Act (8 U.S.C.

1	1182), except as provided under sub-
2	section (e)(2); or
3	(II) is convicted of a felony or 3
4	or more misdemeanors committed in
5	the United States.
6	(C) Grounds for removal.—Any alier
7	granted temporary resident status under sub-
8	section (a) who does not apply for adjustment
9	of status under this subsection before the expi-
10	ration of the application period described in
11	subparagraph (A)(iv), or who fails to meet the
12	other requirements of subparagraph (A) by the
13	end of the applicable period, is deportable and
14	may be removed under section 240 of the Immi-
15	gration and Nationality Act (8 U.S.C. 1229a)
16	The Secretary shall issue regulations estab-
17	lishing grounds to waive subparagraph (A)(iii)
18	with respect to an alien who has completed at
19	least 200 days of the work requirement speci-
20	fied in such subparagraph in the event of a nat-
21	ural disaster which substantially limits the
22	availability of agricultural employment or a per-
23	sonal emergency that prevents compliance with
24	such subparagraph.
25	(2) Spouses and minor children.—

1	(A) In General.—Notwithstanding any
2	other provision of law, the Secretary shall con-
3	fer the status of lawful permanent resident on
4	the spouse and minor child of an alien granted
5	status under paragraph (1), including any indi-
6	vidual who was a minor child on the date such
7	alien was granted temporary resident status, if
8	the spouse or minor child applies for such sta-
9	tus, or if the principal alien includes the spouse
10	or minor child in an application for adjustment
11	of status to that of a lawful permanent resi-
12	dent.
13	(B) Treatment of spouses and minor

- (B) TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.—
 A spouse and minor child of an alien granted temporary resident status under subsection (a) may not be—
 - (i) removed while such alien maintains such status, except as provided in subparagraph (C); and
 - (ii) granted authorization to engage in employment in the United States or be provided an "employment authorized" endorsement or other work permit, unless

1	such employment authorization is granted
2	under another provision of law.
3	(C) Grounds for denial of adjust-
4	MENT OF STATUS AND REMOVAL.—The Sec-
5	retary may deny an alien spouse or child ad-
6	justment of status under subparagraph (A) and
7	may remove such spouse or child under section
8	240 of the Immigration and Nationality Act (8
9	U.S.C. 1229a) if the spouse or child—
10	(i) commits an act that makes the
11	alien spouse or child inadmissible to the
12	United States under section 212 of such
13	Act (8 U.S.C. 1182), except as provided
14	under subsection (e)(2); or
15	(ii) is convicted of a felony or 3 or
16	more misdemeanors committed in the
17	United States.
18	(d) Applications.—
19	(1) To whom may be made.—
20	(A) WITHIN THE UNITED STATES.—The
21	Secretary shall provide that—
22	(i) applications for temporary resident
23	status under subsection (a) may be filed—

1	(I) with the Secretary, but only if
2	the applicant is represented by an at-
3	torney; or
4	(II) with a qualified designated
5	entity (designated under paragraph
6	(2)), but only if the applicant consents
7	to the forwarding of the application to
8	the Secretary; and
9	(ii) applications for adjustment of sta-
10	tus under subsection (c) shall be filed di-
11	rectly with the Secretary.
12	(B) OUTSIDE THE UNITED STATES.—The
13	Secretary, in cooperation with the Secretary of
14	State, shall establish a procedure whereby an
15	alien may apply for temporary resident status
16	under subsection (a) at an appropriate consular
17	office outside the United States.
18	(C) Preliminary applications.—
19	(i) In general.—During the applica-
20	tion period described in subsection
21	(a)(1)(B), the Secretary may grant admis-
22	sion to the United States as a temporary
23	resident and provide an "employment au-
24	thorized" endorsement or other appro-
25	priate work permit to any alien who pre-

sents a preliminary application for such status under subsection (a) at a designated port of entry on the southern land border of the United States. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this Act.

- (ii) DEFINITION.—For purposes of clause (i), the term "preliminary application" means a fully completed and signed application which contains specific information concerning the performance of qualifying employment in the United States, together with the payment of the appropriate fee and the submission of photographs and the documentary evidence which the applicant intends to submit as proof of such employment.
- (iii) ELIGIBILITY.—An applicant under clause (i) shall otherwise be admissible to the United States under subsection (e)(2) and shall establish to the satisfaction of the examining officer during an interview that the applicant's claim to eli-

1	gibility for temporary resident status is
2	credible.
3	(D) TRAVEL DOCUMENTATION.—The Sec-
4	retary shall provide each alien granted status
5	under this section with a counterfeit-resistant
6	document of authorization to enter or reenter
7	the United States that meets the requirements
8	established by the Secretary.
9	(2) Designation of entities to receive ap-
10	PLICATIONS.—
11	(A) In general.—For purposes of receiv-
12	ing applications under subsection (a), the Sec-
13	retary—
14	(i) shall designate qualified farm labor
15	organizations and associations of employ-
16	ers; and
17	(ii) may designate such other persons
18	as the Secretary determines are qualified
19	and have substantial experience, dem-
20	onstrate competence, and have traditional
21	long-term involvement in the preparation
22	and submittal of applications for adjust-
23	ment of status under section 209, 210, or
24	245 of the Immigration and Nationality
25	Act, Public Law 89–732, Public Law 95–

1	145, or the Immigration Reform and Con-
2	trol Act of 1986.
3	(B) References.—Organizations, asso-
4	ciations, and persons designated under subpara-
5	graph (A) are referred to in this Act as "quali-
6	fied designated entities".
7	(3) Proof of eligibility.—
8	(A) In general.—An alien may establish
9	that the alien meets the requirement of sub-
10	section $(a)(1)(A)$ or $(c)(1)(A)$ through govern-
11	ment employment records or records supplied
12	by employers or collective bargaining organiza-
13	tions, and other reliable documentation as the
14	alien may provide. The Secretary shall establish
15	special procedures to properly credit work in
16	cases in which an alien was employed under an
17	assumed name.
18	(B) Documentation of work his-
19	TORY.—
20	(i) Burden of Proof.—An alien ap-
21	plying for status under subsection (a)(1)
22	or $(c)(1)$ has the burden of proving by a
23	preponderance of the evidence that the
	1 1

alien has worked the requisite number of

1	hours	or	days	(as	required	under	sub-
2	section	(a)	(1)(A)	or ((e)(1)(A)).		

- (ii) Timely production of Records.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.
- (iii) SUFFICIENT EVIDENCE.—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) or (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.
- (4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(i)(II) but shall not forward to the Secretary applications filed with it unless the appli-

cant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) Limitation on access to information.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) Confidentiality of information.—

- (A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department of Homeland Security, or bureau or agency thereof, may—
 - (i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any in-

1	formation provided by an employer or
2	former employer, for any purpose other
3	than to make a determination on the appli-
4	cation, or for enforcement of paragraph
5	(7);
6	(ii) make any publication whereby the
7	information furnished by any particular in-
8	dividual can be identified; or
9	(iii) permit anyone other than the
10	sworn officers and employees of the De-
11	partment of Homeland Security, or bureau
12	or agency thereof, or, with respect to appli-
13	cations filed with a qualified designated en-
14	tity, that qualified designated entity, to ex-
15	amine individual applications.
16	(B) REQUIRED DISCLOSURES.—The Sec-
17	retary shall provide the information furnished
18	under this section, or any other information de-
19	rived from such furnished information, to—
20	(i) a duly recognized law enforcement
21	entity in connection with a criminal inves-
22	tigation or prosecution, if such information
23	is requested in writing by such entity; or
24	(ii) an official coroner, for purposes of
25	affirmatively identifying a deceased indi-

1 vidual, whether or not the death of such individual resulted from a crime. 2 3 (C) Construction.— (i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the 6 use, or release, for immigration enforce-7 ment purposes or law enforcement pur-8 poses of information contained in files or 9 records of the Department of Homeland 10 Security pertaining to an application filed 11 under this section, other than information 12 furnished by an applicant pursuant to the 13 application, or any other information de-14 rived from the application, that is not 15 available from any other source. 16 (ii) Criminal convictions.—Infor-17 mation concerning whether the applicant 18 has at any time been convicted of a crime 19 may be used or released for immigration 20 enforcement or law enforcement purposes. (D) CRIME.—Any person who knowingly 21 22 uses, publishes, or permits information to be ex-23 amined in violation of this paragraph shall be

subject to a fine in an amount not to exceed

\$10,000.

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1	(7) Penalties for false statements in ap-
2	PLICATIONS.—
3	(A) CRIMINAL PENALTY.—Any person
4	who—
5	(i) files an application for status
6	under subsection (a) or (c) and knowingly
7	and willfully falsifies, conceals, or covers
8	up a material fact or makes any false, fic-
9	titious, or fraudulent statements or rep-
10	resentations, or makes or uses any false
11	writing or document knowing the same to
12	contain any false, fictitious, or fraudulent
13	statement or entry; or
14	(ii) creates or supplies a false writing
15	or document for use in making such an ap-
16	plication,
17	shall be fined in accordance with title 18,
18	United States Code, imprisoned not more than
19	5 years, or both.
20	(B) Inadmissibility.—An alien who is
21	convicted of a crime under subparagraph (A)
22	shall be considered to be inadmissible to the
23	United States on the ground described in sec-
24	tion 212(a)(6)(C)(i) of the Immigration and
25	Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

1	(8) Eligibility for legal services.—Sec-
2	tion 504(a)(11) of Public Law 104–134 (110 Stat.
3	1321–53 et seq.) shall not be construed to prevent
4	a recipient of funds under the Legal Services Cor-
5	poration Act (42 U.S.C. 2996 et seq.) from pro-
6	viding legal assistance directly related to an applica-
7	tion for adjustment of status under this section.
8	(9) Application fees.—
9	(A) FEE SCHEDULE.—The Secretary shall
10	provide for a schedule of fees that—
11	(i) shall be charged for the filing of
12	applications for status under subsections
13	(a) and (e); and
14	(ii) may be charged by qualified des-
15	ignated entities to help defray the costs of
16	services provided to such applicants.
17	(B) Prohibition on excess fees by
18	QUALIFIED DESIGNATED ENTITIES.—A quali-
19	fied designated entity may not charge any fee
20	in excess of, or in addition to, the fees author-
21	ized under subparagraph (A)(ii) for services
22	provided to applicants.
23	(C) Disposition of fees.—
24	(i) IN GENERAL.—There is established
25	in the general fund of the Treasury a sepa-

1 rate account, which shall be known as the "Agricultural Worker Immigration Status 2 Account". Notwithstanding 3 Adjustment any other provision of law, there shall be deposited as offsetting receipts into the ac-6 count all fees collected under subparagraph 7 (A)(i). 8 (ii) Use of fees for application 9 PROCESSING.—Amounts deposited in the "Agricultural Worker Immigration Status 10 11 Adjustment Account" shall remain avail-12 able to the Secretary until expended for 13 processing applications for status under 14 subsections (a) and (c). 15 (e) Waiver of Numerical Limitations and Cer-TAIN GROUNDS FOR INADMISSIBILITY.— 16 17 (1) Numerical limitations do not apply.— 18 The numerical limitations of sections 201 and 202 19 of the Immigration and Nationality Act (8 U.S.C. 20 1151 and 1152) shall not apply to the adjustment 21 of aliens to lawful permanent resident status under 22 this section.

> (2) WAIVER OF CERTAIN GROUNDS OF INAD-MISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an

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1	alien's eligibility for adjustment of status under sub-
2	section $(c)(1)(B)(ii)(I)$, the following rules shall
3	apply:
4	(A) Grounds of exclusion not appli-
5	CABLE.—The provisions of paragraphs (5),
6	(6)(A), (7)(A), and (9)(B) of section 212(a) of
7	the Immigration and Nationality Act (8 U.S.C.
8	1182(a)) shall not apply.
9	(B) Waiver of other grounds.—
10	(i) In general.—Except as provided
11	in clause (ii), the Secretary may waive any
12	other provision of such section 212(a) in
13	the case of individual aliens for humani-
14	tarian purposes, to ensure family unity, or
15	if otherwise in the public interest.
16	(ii) Grounds that may not be
17	WAIVED.—Paragraphs $(2)(A)$, $(2)(B)$,
18	(2)(C), (3), and (4) of such section 212(a)
19	may not be waived by the Secretary under
20	clause (i).
21	(iii) Construction.—Nothing in this
22	subparagraph shall be construed as affect-
23	ing the authority of the Secretary other
24	than under this subparagraph to waive
25	provisions of such section 212(a).

1 (C) SPECIAL RULE FOR DETERMINATION 2 OF PUBLIC CHARGE.—An alien is not ineligible 3 for status under this section by reason of a under 4 ground of inadmissibility section 5 212(a)(4) of the Immigration and Nationality 6 Act (8 U.S.C. 1182(a)(4)) if the alien dem-7 onstrates a history of employment in the United 8 States evidencing self-support without reliance 9 on public cash assistance.

10 (f) Temporary Stay of Removal and Work Au-11 Thorization for Certain Applicants.—

(1) Before application period.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for temporary resident status under subsection (a) (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for temporary resident status, the alien—

(A) may not be removed; and

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1	(B) shall be granted authorization to en-
2	gage in employment in the United States and
3	be provided an "employment authorized" en-
4	dorsement or other appropriate work permit for
5	such purpose.
6	(2) During application period.—The Sec-

(2) During application period.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for temporary resident status under subsection (a) during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(g) Administrative and Judicial Review.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) Administrative review.—

- (A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.
- (B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) Judicial Review.—

- (A) LIMITATION TO REVIEW OF RE-MOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).
- (B) STANDARD FOR JUDICIAL REVIEW.— Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive un-

- less the applicant can establish abuse of discre-
- 2 tion or that the findings are directly contrary to
- 3 clear and convincing facts contained in the
- 4 record considered as a whole.
- 5 (h) Dissemination of Information on Adjust-
- 6 MENT PROGRAM.—Beginning not later than the first day
- 7 of the application period described in subsection (a)(1)(B),
- 8 the Secretary, in cooperation with qualified designated en-
- 9 tities, shall broadly disseminate information respecting the
- 10 benefits that aliens may receive under this section and the
- 11 requirements to be satisfied to obtain such benefits.
- 12 (i) Regulations.—The Secretary shall issue regula-
- 13 tions to implement this section not later than the first day
- 14 of the seventh month that begins after the date of enact-
- 15 ment of this Act.
- 16 (j) Effective Date.—This section shall take effect
- 17 on the date that regulations are issued implementing this
- 18 section on an interim or other basis.
- 19 (k) AUTHORIZATION OF APPROPRIATIONS.—There
- 20 are authorized to be appropriated to the Secretary to carry
- 21 out this section \$40,000,000 for each of fiscal years 2006
- 22 through 2009.
- 23 SEC. 102. CORRECTION OF SOCIAL SECURITY RECORDS.
- 24 (a) IN GENERAL.—Section 208(d)(1) of the Social
- 25 Security Act (42 U.S.C. 408(d)(1)) is amended—

1	(1) in subparagraph (B)(ii), by striking "or" at
2	the end;
3	(2) in subparagraph (C), by inserting "or" at
4	the end;
5	(3) by inserting after subparagraph (C) the fol-
6	lowing:
7	"(D) who is granted status as a lawful tem-
8	porary resident under the Agricultural Job Oppor-
9	tunity, Benefits, and Security Act of 2005,"; and
10	(4) by striking "1990." and inserting "1990, or
11	in the case of an alien described in subparagraph
12	(D), if such conduct is alleged to have occurred be-
13	fore the date on which the alien was granted lawful
14	temporary resident status.".
15	(b) Effective Date.—The amendments made by
16	subsection (a) shall take effect on the first day of the sev-
17	enth month that begins after the date of enactment of this
18	Act.
19	TITLE II—REFORM OF H-2A
20	WORKER PROGRAM
21	SEC. 201. AMENDMENT TO THE IMMIGRATION AND NATION-
22	ALITY ACT.
23	(a) In General.—The Immigration and Nationality
24	Act is amended by striking section 218 (8 U.S.C. 1188)
25	and inserting the following:

1	"H-2A EMPLOYER APPLICATIONS
2	"Sec. 218. (a) Applications to the Secretary
3	of Labor.—
4	"(1) In general.—No alien may be admitted
5	to the United States as an H-2A worker, or other-
6	wise provided status as an H–2A worker, unless the
7	employer has filed with the Secretary of Labor an
8	application containing—
9	"(A) the assurances described in sub-
10	section (b);
11	"(B) a description of the nature and loca-
12	tion of the work to be performed;
13	"(C) the anticipated period (expected be-
14	ginning and ending dates) for which the work-
15	ers will be needed; and
16	"(D) the number of job opportunities in
17	which the employer seeks to employ the work-
18	ers.
19	"(2) Accompanied by Job offer.—Each ap-
20	plication filed under paragraph (1) shall be accom-
21	panied by a copy of the job offer describing the
22	wages and other terms and conditions of employ-
23	ment and the bona fide occupational qualifications
24	that shall be possessed by a worker to be employed
25	in the job opportunity in question.

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1	"(b) Assurances for Inclusion in Applica-
2	TIONS.—The assurances referred to in subsection (a)(1)
3	are the following:
4	"(1) Job opportunities covered by col-
5	LECTIVE BARGAINING AGREEMENTS.—With respect
6	to a job opportunity that is covered under a collec-
7	tive bargaining agreement:
8	"(A) Union contract described.—The
9	job opportunity is covered by a union contract
10	which was negotiated at arm's length between a
11	bona fide union and the employer.
12	"(B) Strike or lockout.—The specific
13	job opportunity for which the employer is re-
14	questing an H–2A worker is not vacant because
15	the former occupant is on strike or being locked
16	out in the course of a labor dispute.
17	"(C) Notification of Bargaining Rep-
18	RESENTATIVES.—The employer, at the time of
19	filing the application, has provided notice of the
20	filing under this paragraph to the bargaining
21	representative of the employer's employees in
22	the occupational classification at the place or

places of employment for which aliens are

sought.

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1	"(D) Temporary or seasonal job op-
2	PORTUNITIES.—The job opportunity is tem-
3	porary or seasonal.
4	"(E) Offers to united states work-
5	ERS.—The employer has offered or will offer
6	the job to any eligible United States worker
7	who applies and is equally or better qualified
8	for the job for which the nonimmigrant is, or
9	the nonimmigrants are, sought and who will be
10	available at the time and place of need.
11	"(F) Provision of Insurance.—If the
12	job opportunity is not covered by the State
13	workers' compensation law, the employer will
14	provide, at no cost to the worker, insurance cov-
15	ering injury and disease arising out of, and in
16	the course of, the worker's employment which
17	will provide benefits at least equal to those pro-
18	vided under the State's workers' compensation
19	law for comparable employment.
20	"(2) Job opportunities not covered by
21	COLLECTIVE BARGAINING AGREEMENTS.—With re-
22	spect to a job opportunity that is not covered under
23	a collective bargaining agreement:
24	"(A) STRIKE OR LOCKOUT.—The specific
25	job opportunity for which the employer is re-

- questing an H-2A worker is not vacant because
 the former occupant is on strike or being locked
 out in the course of a labor dispute.

 "(B) Temporary or seasonal job op-
 - "(B) TEMPORARY OR SEASONAL JOB OP-PORTUNITIES.—The job opportunity is temporary or seasonal.
 - "(C) Benefit, wage, and working con-DITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.
 - "(D) Nondisplacement of united states worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.
 - "(E) REQUIREMENTS FOR PLACEMENT OF NONIMMIGRANT WITH OTHER EMPLOYERS.—

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1	The employer will not place the nonimmigrant
2	with another employer unless—
3	"(i) the nonimmigrant performs du-
4	ties in whole or in part at 1 or more work
5	sites owned, operated, or controlled by
6	such other employer;
7	"(ii) there are indicia of an employ-
8	ment relationship between the non-
9	immigrant and such other employer; and
10	"(iii) the employer has inquired of the
11	other employer as to whether, and has no
12	actual knowledge or notice that, during the
13	period of employment and for a period of
14	30 days preceding the period of employ-
15	ment, the other employer has displaced or
16	intends to displace a United States worker
17	employed by the other employer in the oc-
18	cupation at the place of employment for
19	which the employer seeks approval to em-
20	ploy H–2A workers.
21	"(F) STATEMENT OF LIABILITY.—The ap-
22	plication form shall include a clear statement
23	explaining the liability under subparagraph (E)
24	of an employer if the other employer described

1	in such subparagraph displaces a United States
2	worker as described in such subparagraph.
3	"(G) Provision of Insurance.—If the
4	job opportunity is not covered by the State
5	workers' compensation law, the employer will
6	provide, at no cost to the worker, insurance cov-
7	ering injury and disease arising out of and in
8	the course of the worker's employment which
9	will provide benefits at least equal to those pro-
10	vided under the State's workers' compensation
11	law for comparable employment.
12	"(H) Employment of united states
13	WORKERS.—
14	"(i) Recruitment.—The employer
15	has taken or will take the following steps
16	to recruit United States workers for the
17	job opportunities for which the H–2A non-
18	immigrant is, or H–2A nonimmigrants are,
19	sought:
20	"(I) Contacting former
21	WORKERS.—The employer shall make
22	reasonable efforts through the sending
23	of a letter by United States Postal
24	Service mail, or otherwise, to contact
25	any United States worker the em-

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ployer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired. "(II) FILING A JOB OFFER WITH

THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—
Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the

1 State employment security agency 2 which serves the area of intended em-3 ployment and authorize the posting of 4 the job opportunity on 'America's Job 5 Bank' or other electronic job registry, 6 except that nothing in this subclause 7 shall require the employer to file an 8 interstate job order under section 653 9 of title 20, Code of Federal Regula-10 tions. 11 "(III) Advertising of Job op-12 PORTUNITIES.—Not later than 13 days before the date on which the em-14 ployer desires to employ an H-2A 15 worker in a temporary or seasonal ag-16 ricultural job opportunity, the em-17 ployer shall advertise the availability 18 of the job opportunities for which the 19 employer is seeking workers in a pub-20 lication in the local labor market that 21 is likely to be patronized by potential 22 farm workers. 23 "(IV) **EMERGENCY** PROCE-DURES.—The 24 Secretary of Labor 25 shall, by regulation, provide a proce-

dure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

"(ii) Job offers.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or non-immigrants are, sought and who will be available at the time and place of need.

"(iii) Period of Employment.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

1	"(I) Prohibition.—No person
2	or entity shall willfully and knowingly
3	withhold United States workers before
4	the arrival of H-2A workers in order
5	to force the hiring of United States
6	workers under this clause.
7	"(II) Complaints.—Upon re-
8	ceipt of a complaint by an employer
9	that a violation of subclause (I) has
10	occurred, the Secretary of Labor shall
11	immediately investigate. The Sec-
12	retary of Labor shall, within 36 hours
13	of the receipt of the complaint, issue
14	findings concerning the alleged viola-
15	tion. If the Secretary of Labor finds
16	that a violation has occurred, the Sec-
17	retary of Labor shall immediately sus-
18	pend the application of this clause
19	with respect to that certification for
20	that date of need.
21	"(III) PLACEMENT OF UNITED
22	STATES WORKERS.—Before referring
23	a United States worker to an em-
24	ployer during the period described in

the matter preceding subclause (I),

1 the Secretary of Labor shall make all 2 reasonable efforts to place the United 3 States worker in an open job accept-4 able to the worker, if there are other job offers pending with the job service 6 that offer similar job opportunities in 7 the area of intended employment. "(iv) STATUTORY CONSTRUCTION.— 8 9 Nothing in this subparagraph shall be con-10 strued to prohibit an employer from using 11 such legitimate selection criteria relevant 12 to the type of job that are normal or cus-13 tomary to the type of job involved so long 14 as such criteria are not applied in a dis-15 criminatory manner. 16 "(c) Applications by Associations on Behalf 17 OF EMPLOYER MEMBERS.— 18 "(1) IN GENERAL.—An agricultural association 19 may file an application under subsection (a) on be-20 half of 1 or more of its employer members that the 21 association certifies in its application has or have 22 agreed in writing to comply with the requirements of 23 this section and sections 218A through 218C. 24 "(2) Treatment of associations acting as

EMPLOYERS.—If an association filing an application

under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

"(d) WITHDRAWAL OF APPLICATIONS.—

"(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

	"(2) Limitation.—An application may not be
2	withdrawn while any alien provided status under sec-
3	tion 101(a)(15)(H)(ii)(a) pursuant to such applica-
1	tion is employed by the employer.

"(3) Obligations under other statutes.—
Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

"(e) REVIEW AND APPROVAL OF APPLICATIONS.—

- "(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).
- "(2) Responsibility of the secretary of Labor.—
- 23 "(A) COMPILATION OF LIST.—The Sec-24 retary of Labor shall compile, on a current 25 basis, a list (by employer and by occupational

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classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

"(B) Review of Applications.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.

"H-2A EMPLOYMENT REQUIREMENTS

"Sec. 218A. (a) Preferential Treatment of Aliens Prohibited.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obliga-

1	tions which will not be imposed on the employer's $H-2A$
2	workers.
3	"(b) Minimum Benefits, Wages, and Working
4	CONDITIONS.—Except in cases where higher benefits,
5	wages, or working conditions are required by the provi-
6	sions of subsection (a), in order to protect similarly em-
7	ployed United States workers from adverse effects with
8	respect to benefits, wages, and working conditions, every
9	job offer which shall accompany an application under sec-
10	tion 218(b)(2) shall include each of the following benefit,
11	wage, and working condition provisions:
12	"(1) Requirement to provide housing or a
13	HOUSING ALLOWANCE.—
14	"(A) IN GENERAL.—An employer applying
15	under section 218(a) for H–2A workers shall
16	offer to provide housing at no cost to all work-
17	ers in job opportunities for which the employer
18	has applied under that section and to all other
19	workers in the same occupation at the place of
20	employment, whose place of residence is beyond
21	normal commuting distance.
22	"(B) Type of housing.—In complying
23	with subparagraph (A), an employer may, at
24	the employer's election, provide housing that
25	meets applicable Federal standards for tem-

porary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

- "(C) Family Housing.—When it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.
- "(D) Workers engaged in the range production of Livestock.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.
- "(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the

temporary labor certification regulations in effect on June 1, 1986.

"(F) Charges for housing.—

"(i) Charges for Public Hous-Ing.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

"(ii) Deposit charges.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

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1	"(G) Housing allowance as alter-
2	NATIVE.—
3	"(i) IN GENERAL.—If the requirement
4	under clause (ii) is satisfied, the employer
5	may provide a reasonable housing allow-
6	ance instead of offering housing under sub-
7	paragraph (A). Upon the request of a
8	worker seeking assistance in locating hous-
9	ing, the employer shall make a good faith
10	effort to assist the worker in identifying
11	and locating housing in the area of in-
12	tended employment. An employer who of-
13	fers a housing allowance to a worker, or
14	assists a worker in locating housing which
15	the worker occupies, pursuant to this
16	clause shall not be deemed a housing pro-
17	vider under section 203 of the Migrant and
18	Seasonal Agricultural Worker Protection
19	Act (29 U.S.C. 1823) solely by virtue of
20	providing such housing allowance. No
21	housing allowance may be used for housing
22	which is owned or controlled by the em-
23	ployer.
24	"(ii) Certification.—The require-
25	ment of this clause is satisfied if the Gov-

ernor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

"(iii) Amount of allowance.—

"(I) Nonmetropolitan counties.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit

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1	and an assumption of 2 persons per
2	bedroom.
3	"(II) METROPOLITAN COUN-
4	TIES.—If the place of employment of
5	the workers provided an allowance
6	under this paragraph is in a metro-
7	politan county, the amount of the
8	housing allowance under this subpara-
9	graph shall be equal to the statewide
10	average fair market rental for existing
11	housing for metropolitan counties for
12	the State, as established by the Sec-
13	retary of Housing and Urban Devel-
14	opment pursuant to section 8(c) of
15	the United States Housing Act of
16	1937 (42 U.S.C. 1437f(c)), based or
17	a 2-bedroom dwelling unit and an as-
18	sumption of 2 persons per bedroom.
19	"(2) Reimbursement of transportation.—
20	"(A) TO PLACE OF EMPLOYMENT.—A
21	worker who completes 50 percent of the period
22	of employment of the job opportunity for which
23	the worker was hired shall be reimbursed by the
24	employer for the cost of the worker's transpor-

tation and subsistence from the place from

which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

"(B) From place of employment.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

"(C) LIMITATION.—

"(i) Amount of Reimbursement.—
Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

1	"(I) the actual cost to the worker
2	or alien of the transportation and sub-
3	sistence involved; or
4	"(II) the most economical and
5	reasonable common carrier transpor-
6	tation charges and subsistence costs
7	for the distance involved.
8	"(ii) DISTANCE TRAVELED.—No reim-
9	bursement under subparagraph (A) or (B)
10	shall be required if the distance traveled is
11	100 miles or less, or the worker is not re-
12	siding in employer-provided housing or
13	housing secured through an allowance as
14	provided in paragraph (1)(G).
15	"(D) EARLY TERMINATION.—If the worker
16	is laid off or employment is terminated for con-
17	tract impossibility (as described in paragraph
18	(4)(D)) before the anticipated ending date of
19	employment, the employer shall provide the
20	transportation and subsistence required by sub-
21	paragraph (B) and, notwithstanding whether
22	the worker has completed 50 percent of the pe-
23	riod of employment, shall provide the transpor-
24	tation reimbursement required by subparagraph
25	(A).

"(E) Transportation between Living Quarters and work site.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

"(3) Required wages.—

"(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

"(B) LIMITATION.—Effective on the date of enactment of the Agricultural Job Opportunity, Benefits, and Security Act of 2005 and continuing for 3 years thereafter, no adverse ef-

1	fect wage rate for a State may be more than
2	the adverse effect wage rate for that State in
3	effect on January 1, 2003, as established by
4	section 655.107 of title 20, Code of Federal
5	Regulations.
6	"(C) REQUIRED WAGES AFTER 3-YEAR
7	FREEZE.—
8	"(i) First adjustment.—If Con-
9	gress does not set a new wage standard
10	applicable to this section before the first
11	March 1 that is not less than 3 years after
12	the date of enactment of this section, the
13	adverse effect wage rate for each State be-
14	ginning on such March 1 shall be the wage
15	rate that would have resulted if the ad-
16	verse effect wage rate in effect on January
17	1, 2003, had been annually adjusted, be-
18	ginning on March 1, 2006, by the lesser
19	of—
20	"(I) the 12 month percentage
21	change in the Consumer Price Index
22	for All Urban Consumers between De-
23	cember of the second preceding year
24	and December of the preceding year;
25	and

1	" (Π) 4 percent.
2	"(ii) Subsequent annual adjust-
3	MENTS.—Beginning on the first March 1
4	that is not less than 4 years after the date
5	of enactment of this section, and each
6	March 1 thereafter, the adverse effect
7	wage rate then in effect for each State
8	shall be adjusted by the lesser of—
9	"(I) the 12 month percentage
10	change in the Consumer Price Index
11	for All Urban Consumers between De-
12	cember of the second preceding year
13	and December of the preceding year
14	and
15	"(II) 4 percent.
16	"(D) Deductions.—The employer shall
17	make only those deductions from the worker's
18	wages that are authorized by law or are reason-
19	able and customary in the occupation and area
20	of employment. The job offer shall specify al
21	deductions not required by law which the em-
22	ployer will make from the worker's wages.
23	"(E) Frequency of Pay.—The employer
24	shall pay the worker not less frequently than
25	twice monthly or in accordance with the pre-

1	vailing practice in the area of employment,
2	whichever is more frequent.
3	"(F) Hours and earnings state-
4	MENTS.—The employer shall furnish to the
5	worker, on or before each payday, in 1 or more
6	written statements—
7	"(i) the worker's total earnings for
8	the pay period;
9	"(ii) the worker's hourly rate of pay,
10	piece rate of pay, or both;
11	"(iii) the hours of employment which
12	have been offered to the worker (broken
13	out by hours offered in accordance with
14	and over and above the three-quarters
15	guarantee described in paragraph (4);
16	"(iv) the hours actually worked by the
17	worker;
18	"(v) an itemization of the deductions
19	made from the worker's wages; and
20	"(vi) if piece rates of pay are used,
21	the units produced daily.
22	"(G) Report on wage protections.—
23	Not later than June 1, 2007, the Comptroller
24	General of the United States shall prepare and
25	transmit to the Secretary of Labor, the Com-

1	mittee on the Judiciary of the Senate, and
2	Committee on the Judiciary of the House of
3	Representatives, a report that addresses—
4	"(i) whether the employment of H–2A
5	or unauthorized aliens in the United States
6	agricultural work force has depressed
7	United States farm worker wages below
8	the levels that would otherwise have pre-
9	vailed if alien farm workers had not been
10	employed in the United States;
11	"(ii) whether an adverse effect wage
12	rate is necessary to prevent wages of
13	United States farm workers in occupations
14	in which H–2A workers are employed from
15	falling below the wage levels that would
16	have prevailed in the absence of the em-
17	ployment of H–2A workers in those occu-
18	pations;
19	"(iii) whether alternative wage stand-
20	ards, such as a prevailing wage standard,
21	would be sufficient to prevent wages in oc-
22	cupations in which H–2A workers are em-
23	ployed from falling below the wage level
24	that would have prevailed in the absence of
25	H-2A employment:

1	"(iv) whether any changes are war-
2	ranted in the current methodologies for
3	calculating the adverse effect wage rate
4	and the prevailing wage; and
5	"(v) recommendations for future wage
6	protection under this section.
7	"(H) Commission on wage stand-
8	ARDS.—
9	"(i) Establishment.—There is es-
10	tablished the Commission on Agricultural
11	Wage Standards under the H–2A program
12	(in this subparagraph referred to as the
13	'Commission').
14	"(ii) Composition.—The Commission
15	shall consist of 10 members as follows:
16	"(I) 4 representatives of agricul-
17	tural employers and 1 representative
18	of the Department of Agriculture,
19	each appointed by the Secretary of
20	Agriculture.
21	"(II) 4 representatives of agricul-
22	tural workers and 1 representative of
23	the Department of Labor, each ap-
24	pointed by the Secretary of Labor.

1	"(iii) Functions.—The Commission
2	shall conduct a study that shall address—
3	"(I) whether the employment of
4	H-2A or unauthorized aliens in the
5	United States agricultural workforce
6	has depressed United States farm
7	worker wages below the levels that
8	would otherwise have prevailed if alien
9	farm workers had not been employed
10	in the United States;
11	(Π) whether an adverse effect
12	wage rate is necessary to prevent
13	wages of United States farm workers
14	in occupations in which H-2A work-
15	ers are employed from falling below
16	the wage levels that would have pre-
17	vailed in the absence of the employ-
18	ment of H-2A workers in those occu-
19	pations;
20	"(III) whether alternative wage
21	standards, such as a prevailing wage
22	standard, would be sufficient to pre-
23	vent wages in occupations in which
24	H-2A workers are employed from fall-
25	ing below the wage level that would

1	have prevailed in the absence of H–2A
2	employment;
3	"(IV) whether any changes are
4	warranted in the current methodolo-
5	gies for calculating the adverse effect
6	wage rate and the prevailing wage
7	rate; and
8	"(V) recommendations for future
9	wage protection under this section.
10	"(iv) Final Report.—Not later than
11	June 1, 2007, the Commission shall sub-
12	mit a report to the Congress setting forth
13	the findings of the study conducted under
14	clause (iii).
15	"(v) TERMINATION DATE.—The Com-
16	mission shall terminate upon submitting
17	its final report.
18	"(4) Guarantee of employment.—
19	"(A) Offer to worker.—The employer
20	shall guarantee to offer the worker employment
21	for the hourly equivalent of at least three-
22	fourths of the work days of the total period of
23	employment, beginning with the first work day
24	after the arrival of the worker at the place of
25	employment and ending on the expiration date

specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

"(B) Failure to work.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

"(C) ABANDONMENT OF EMPLOYMENT,
TERMINATION FOR CAUSE.—If the worker vol-

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untarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 'threefourths guarantee' described in subparagraph (A).

"(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including but not limited to a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the em-

1	ployer shall provide the return transportation
2	required in paragraph (2)(D).
3	"(5) Motor vehicle safety.—
4	"(A) Mode of transportation subject
5	TO COVERAGE.—
6	"(i) In general.—Except as pro-
7	vided in clauses (iii) and (iv), this sub-
8	section applies to any H–2A employer that
9	uses or causes to be used any vehicle to
10	transport an H–2A worker within the
11	United States.
12	"(ii) Defined term.—In this para-
13	graph, the term 'uses or causes to be
14	used'—
15	"(I) applies only to transpor-
16	tation provided by an H–2A employer
17	to an H–2A worker, or by a farm
18	labor contractor to an H -2 A worker
19	at the request or direction of an H-
20	2A employer; and
21	"(II) does not apply to—
22	"(aa) transportation pro-
23	vided, or transportation arrange-
24	ments made, by an H–2A work-
25	er, unless the employer specifi-

1	cally requested or arranged such
2	transportation; or
3	"(bb) car pooling arrange-
4	ments made by H–2A workers
5	themselves, using 1 of the work-
6	ers' own vehicles, unless specifi-
7	cally requested by the employer
8	directly or through a farm labor
9	contractor.
10	"(iii) Clarification.—Providing a
11	job offer to an H–2A worker that causes
12	the worker to travel to or from the place
13	of employment, or the payment or reim-
14	bursement of the transportation costs of
15	an H–2A worker by an H–2A employer,
16	shall not constitute an arrangement of, or
17	participation in, such transportation.
18	"(iv) AGRICULTURAL MACHINERY AND
19	EQUIPMENT EXCLUDED.—This subsection
20	does not apply to the transportation of an
21	H–2A worker on a tractor, combine, har-
22	vester, picker, or other similar machinery
23	or equipment while such worker is actually
24	engaged in the planting, cultivating, or
25	harvesting of agricultural commodities or

1	the care of livestock or poultry or engaged
2	in transportation incidental thereto.
3	"(v) Common carriers ex-
4	CLUDED.—This subsection does not apply
5	to common carrier motor vehicle transpor-
6	tation in which the provider holds itself out
7	to the general public as engaging in the
8	transportation of passengers for hire and
9	holds a valid certification of authorization
10	for such purposes from an appropriate
11	Federal, State, or local agency.
12	"(B) Applicability of standards, li-
13	CENSING, AND INSURANCE REQUIREMENTS.—
14	"(i) In general.—When using, or
15	causing to be used, any vehicle for the pur-
16	pose of providing transportation to which
17	this subparagraph applies, each employer
18	shall—
19	"(I) ensure that each such vehi-
20	cle conforms to the standards pre-
21	scribed by the Secretary of Labor
22	under section 401(b) of the Migrant
23	and Seasonal Agricultural Worker
24	Protection Act (29 U.S.C. 1841(b))

and other applicable Federal and
2 State safety standards;
3 "(II) ensure that each driver has
a valid and appropriate license, as
5 provided by State law, to operate the
6 vehicle; and
7 "(III) have an insurance policy
8 or a liability bond that is in effect
9 which insures the employer against li
0 ability for damage to persons or prop
1 erty arising from the ownership, oper
2 ation, or causing to be operated, o
any vehicle used to transport any H-
4 2A worker.
5 "(ii) Amount of insurance re
6 QUIRED.—The level of insurance required
shall be determined by the Secretary o
8 Labor pursuant to regulations to be issued
9 under this subsection.
"(iii) Effect of workers' com
PENSATION COVERAGE.—If the employer
of any H–2A worker provides workers
compensation coverage for such worker in
the case of bodily injury or death as pro
vided by State law, the following adjust

ments in the requirements of subparagraph 1 2 (B)(i)(III) relating to having an insurance 3 policy or liability bond apply: "(I) No insurance policy or liabil-4 ity bond shall be required of the em-6 ployer, if such workers are trans-7 ported only under circumstances for 8 which there is coverage under such 9 State law. "(II) An insurance policy or li-10 11 ability bond shall be required of the 12 employer for circumstances 13 which coverage for the transportation 14 of such workers is not provided under 15 such State law. 16 "(c) Compliance With Labor Laws.—An employer shall assure that, except as otherwise provided in 18 this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affect-19 ing migrant and seasonal agricultural workers, with re-20 21 spect to all United States workers and alien workers employed by the employer, except that a violation of this as-23 surance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 25 1801 et seq.).

- 1 "(d) Copy of Job Offer.—The employer shall pro-
- 2 vide to the worker, not later than the day the work com-
- 3 mences, a copy of the employer's application and job offer
- 4 described in section 218(a), or, if the employer will require
- 5 the worker to enter into a separate employment contract
- 6 covering the employment in question, such separate em-
- 7 ployment contract.
- 8 "(e) Range Production of Livestock.—Nothing
- 9 in this section, section 218, or section 218B shall preclude
- 10 the Secretary of Labor and the Secretary from continuing
- 11 to apply special procedures and requirements to the ad-
- 12 mission and employment of aliens in occupations involving
- 13 the range production of livestock.
- 14 "PROCEDURE FOR ADMISSION AND EXTENSION OF STAY
- OF H-2A WORKERS
- "Sec. 218B. (a) Petitioning for Admission.—An
- 17 employer, or an association acting as an agent or joint
- 18 employer for its members, that seeks the admission into
- 19 the United States of an H-2A worker may file a petition
- 20 with the Secretary. The petition shall be accompanied by
- 21 an accepted and currently valid certification provided by
- 22 the Secretary of Labor under section 218(e)(2)(B) cov-
- 23 ering the petitioner.
- 24 "(b) Expedited Adjudication by the Sec-
- 25 RETARY.—The Secretary shall establish a procedure for
- 26 expedited adjudication of petitions filed under subsection

1	(a) and within 7 working days shall, by fax, cable, or other
2	means assuring expedited delivery, transmit a copy of no-
3	tice of action on the petition to the petitioner and, in the
4	case of approved petitions, to the appropriate immigration
5	officer at the port of entry or United States consulate (as
6	the case may be) where the petitioner has indicated that
7	the alien beneficiary (or beneficiaries) will apply for a visa
8	or admission to the United States.
9	"(c) Criteria for Admissibility.—
10	"(1) IN GENERAL.—An H–2A worker shall be
11	considered admissible to the United States if the
12	alien is otherwise admissible under this section, sec-
13	tion 218, and section 218A, and the alien is not in-
14	eligible under paragraph (2).
15	"(2) DISQUALIFICATION.—An alien shall be
16	considered inadmissible to the United States and in-
17	eligible for nonimmigrant status under section
18	101(a)(15)(H)(ii)(a) if the alien has, at any time
19	during the past 5 years—
20	"(A) violated a material provision of this
21	section, including the requirement to promptly
22	depart the United States when the alien's au-
23	thorized period of admission under this section
24	has expired; or

1	"(B) otherwise violated a term or condition
2	of admission into the United States as a non-
3	immigrant, including overstaying the period of
4	authorized admission as such a nonimmigrant.
5	"(3) Waiver of ineligibility for unlaw-
6	FUL PRESENCE.—
7	"(A) IN GENERAL.—An alien who has not
8	previously been admitted into the United States
9	pursuant to this section, and who is otherwise
10	eligible for admission in accordance with para-
11	graphs (1) and (2), shall not be deemed inad-
12	missible by virtue of section 212(a)(9)(B). If an
13	alien described in the preceding sentence is
14	present in the United States, the alien may
15	apply from abroad for H–2A status, but may
16	not be granted that status in the United States.
17	"(B) Maintenance of Waiver.—An
18	alien provided an initial waiver of ineligibility
19	pursuant to subparagraph (A) shall remain eli-
20	gible for such waiver unless the alien violates
21	the terms of this section or again becomes ineli-
22	gible under section 212(a)(9)(B) by virtue of
23	unlawful presence in the United States after
24	the date of the initial waiver of ineligibility pur-

suant to subparagraph (A).

1	"(d) Period of Admission.—
2	"(1) IN GENERAL.—The alien shall be admitted
3	for the period of employment in the application cer-
4	tified by the Secretary of Labor pursuant to section
5	218(e)(2)(B), not to exceed 10 months, supple-
6	mented by a period of not more than 1 week before
7	the beginning of the period of employment for the
8	purpose of travel to the work site and a period of
9	14 days following the period of employment for the
10	purpose of departure or extension based on a subse-
11	quent offer of employment, except that—
12	"(A) the alien is not authorized to be em-
13	ployed during such 14-day period except in the
14	employment for which the alien was previously
15	authorized; and
16	"(B) the total period of employment, in-
17	cluding such 14-day period, may not exceed 10
18	months.
19	"(2) Construction.—Nothing in this sub-
20	section shall limit the authority of the Secretary to
21	extend the stay of the alien under any other provi-
22	sion of this Act.
23	"(e) Abandonment of Employment.—
24	"(1) In general.—An alien admitted or pro-
25	vided status under section 101(a)(15)(H)(ii)(a) who

- abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).
 - "(2) Report by employer.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H-2A worker prematurely abandons employment.
 - "(3) Removal by the secretary.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.
 - "(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

"(f) Replacement of Alien.—

"(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

1	"(A) who abandons or prematurely termi-
2	nates employment; or
3	"(B) whose employment is terminated
4	after a United States worker is employed pur-
5	suant to section 218(b)(2)(H)(iii), if the United
6	States worker voluntarily departs before the
7	end of the period of intended employment or if
8	the employment termination is for a lawful job-
9	related reason.
10	"(2) Construction.—Nothing in this sub-
11	section is intended to limit any preference required
12	to be accorded United States workers under any
13	other provision of this Act.
14	"(g) Identification Document.—
15	"(1) IN GENERAL.—Each alien authorized to be
16	admitted under section 101(a)(15)(H)(ii)(a) shall be
17	provided an identification and employment eligibility
18	document to verify eligibility for employment in the
19	United States and verify such person's proper iden-
20	tity.
21	"(2) Requirements.—No identification and
22	employment eligibility document may be issued
23	which does not meet the following requirements:
24	"(A) The document shall be capable of re-
25	liably determining whether—

1	"(i) the individual with the identifica-
2	tion and employment eligibility document
3	whose eligibility is being verified is in fact
4	eligible for employment;
5	"(ii) the individual whose eligibility is
6	being verified is claiming the identity of
7	another person; and
8	"(iii) the individual whose eligibility is
9	being verified is authorized to be admitted
10	into, and employed in, the United States
11	as an H–2A worker.
12	"(B) The document shall be in a form that
13	is resistant to counterfeiting and to tampering.
14	"(C) The document shall—
15	"(i) be compatible with other data-
16	bases of the Secretary for the purpose of
17	excluding aliens from benefits for which
18	they are not eligible and determining
19	whether the alien is unlawfully present in
20	the United States; and
21	"(ii) be compatible with law enforce-
22	ment databases to determine if the alien
23	has been convicted of criminal offenses.
24	"(h) Extension of Stay of H–2A Aliens in the
25	UNITED STATES —

1	"(1) Extension of stay.—If an employer
2	seeks approval to employ an H-2A alien who is law-
3	fully present in the United States, the petition filed
4	by the employer or an association pursuant to sub-
5	section (a), shall request an extension of the alien's
6	stay and a change in the alien's employment.
7	"(2) Limitation on filing a petition for
8	EXTENSION OF STAY.—A petition may not be filed
9	for an extension of an alien's stay—
10	"(A) for a period of more than 10 months;
11	or
12	"(B) to a date that is more than 3 years
13	after the date of the alien's last admission to
14	the United States under this section.
15	"(3) Work authorization upon filing a
16	PETITION FOR EXTENSION OF STAY.—
17	"(A) IN GENERAL.—An alien who is law-
18	fully present in the United States may com-
19	mence the employment described in a petition
20	under paragraph (1) on the date on which the
21	petition is filed.
22	"(B) Definition.—For purposes of sub-
23	paragraph (A), the term 'file' means sending
24	the petition by certified mail via the United
25	States Postal Service, return receipt requested,

or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

- "(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.
- "(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.
- "(4) Limitation on employment authorization of aliens without valid identification and employment.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized em-

1 ployment that complies with the requirements of 2 paragraph (1), shall constitute a valid work author-3 ization document for a period of not more than 60 4 days beginning on the date on which such petition 5 is filed, after which time only a currently valid iden-6 tification and employment eligibility document shall 7 be acceptable. "(5) Limitation on an individual's stay in 8 9 STATUS.— "(A) MAXIMUM PERIOD.—The maximum 10 11 continuous period of authorized status as an 12 H-2A worker (including any extensions) is 3 13 years. 14 "(B) REQUIREMENT TO REMAIN OUTSIDE 15 THE UNITED STATES.— "(i) In general.—Subject to clause 16 17 (ii), in the case of an alien outside the 18 United States whose period of authorized 19 status as an H–2A worker (including any 20 extensions) has expired, the alien may not 21 again apply for admission to the United 22 States as an H-2A worker unless the alien 23 has remained outside the United States for 24 a continuous period equal to at least ½

the duration of the alien's previous period

1	of authorized status as an H-2A worker
2	(including any extensions).
3	"(ii) Exception.—Clause (i) shall
4	not apply in the case of an alien if the
5	alien's period of authorized status as an
6	H-2A worker (including any extensions)
7	was for a period of not more than 10
8	months and such alien has been outside
9	the United States for at least 2 months
10	during the 12 months preceding the date
11	the alien again is applying for admission to
12	the United States as an H–2A worker.
13	"(i) Special Rules for Aliens Employed as
14	Sheepherders.—Notwithstanding any provision of the
15	Agricultural Job Opportunity, Benefits, and Security Act
16	of 2005, aliens admitted under section
17	101(a)(15)(H)(ii)(a) for employment as sheepherders—
18	"(1) may be admitted for a period of 12
19	months;
20	"(2) may be extended for a continuous period
21	of up to 3 years; and
22	"(3) shall not be subject to the requirements of
23	subsection (h)(5) relating to periods of absence from
24	the United States.

1	"WORKER PROTECTIONS AND LABOR STANDARDS
2	ENFORCEMENT
3	"Sec. 218C. (a) Enforcement Authority.—
4	"(1) Investigation of complaints.—
5	"(A) AGGRIEVED PERSON OR THIRD-PARTY
6	COMPLAINTS.—The Secretary of Labor shall es-
7	tablish a process for the receipt, investigation
8	and disposition of complaints respecting a peti-
9	tioner's failure to meet a condition specified in
10	section 218(b), or an employer's misrepresenta-
11	tion of material facts in an application under
12	section 218(a). Complaints may be filed by any
13	aggrieved person or organization (including bar-
14	gaining representatives). No investigation or
15	hearing shall be conducted on a complaint con-
16	cerning such a failure or misrepresentation un-
17	less the complaint was filed not later than 12
18	months after the date of the failure, or mis-
19	representation, respectively. The Secretary of
20	Labor shall conduct an investigation under this
21	subparagraph if there is reasonable cause to be-
22	lieve that such a failure or misrepresentation
23	has occurred.
24	"(B) Determination on complaint.—
25	Under such process, the Secretary of Labor

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shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (H). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

"(C) Failures to meet conditions.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition

1	of paragraph $(1)(C)$, $(1)(E)$, $(2)(C)$, $(2)(D)$,
2	(2)(E), or $(2)(H)$ of section $218(b)$, or a mate-
3	rial misrepresentation of fact in an application
4	under section 218(a)—
5	"(i) the Secretary of Labor shall no-
6	tify the Secretary of such finding and may,
7	in addition, impose such other administra-
8	tive remedies (including civil money pen-
9	alties in an amount not to exceed \$1,000
10	per violation) as the Secretary of Labor
11	determines to be appropriate; and
12	"(ii) the Secretary may disqualify the
13	employer from the employment of aliens
14	described in section $101(a)(15)(H)(ii)(a)$
15	for a period of 1 year.
16	"(D) WILLFUL FAILURES AND WILLFUL
17	MISREPRESENTATIONS.—If the Secretary of
18	Labor finds, after notice and opportunity for
19	hearing, a willful failure to meet a condition of
20	section 218(b), a willful misrepresentation of a
21	material fact in an application under section
22	218(a), or a violation of subsection (d)(1)—
23	"(i) the Secretary of Labor shall no-
24	tify the Secretary of such finding and may,
25	in addition, impose such other administra-

1	tive remedies (including civil money pen-
2	alties in an amount not to exceed \$5,000
3	per violation) as the Secretary of Labor
4	determines to be appropriate;
5	"(ii) the Secretary of Labor may seek
6	appropriate legal or equitable relief to ef-
7	fectuate the purposes of subsection $(d)(1)$;
8	and
9	"(iii) the Secretary may disqualify the
10	employer from the employment of H – $2A$
11	workers for a period of 2 years.
12	"(E) DISPLACEMENT OF UNITED STATES
13	WORKERS.—If the Secretary of Labor finds,
14	after notice and opportunity for hearing, a will-
15	ful failure to meet a condition of section 218(b)
16	or a willful misrepresentation of a material fact
17	in an application under section 218(a), in the
18	course of which failure or misrepresentation the
19	employer displaced a United States worker em-
20	ployed by the employer during the period of em-
21	ployment on the employer's application under
22	section 218(a) or during the period of 30 days
23	preceding such period of employment—
24	"(i) the Secretary of Labor shall no-
25	tify the Secretary of such finding and may,

in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$15,000 per violation) as the Secretary of Labor determines to be appropriate; and

- "(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.
- "(F) LIMITATIONS ON CIVIL MONEY PEN-ALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of \$90,000.

"(G) Failures to pay wages or required benefits.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or

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1	other required benefits under section 218A(b)
2	shall be equal to the difference between the
3	amount that should have been paid and the
4	amount that actually was paid to such worker.
5	"(2) Statutory construction.—Nothing in
6	this section shall be construed as limiting the au-
7	thority of the Secretary of Labor to conduct any
8	compliance investigation under any other labor law,
9	including any law affecting migrant and seasonal ag-
10	ricultural workers, or, in the absence of a complaint
11	under this section, under section 218 or 218A.
12	"(b) Rights Enforceable by Private Right of
13	ACTION.—H-2A workers may enforce the following rights
14	through the private right of action provided in subsection
15	(c), and no other right of action shall exist under Federal
16	or State law to enforce such rights:
17	"(1) The providing of housing or a housing al-
18	lowance as required under section 218A(b)(1).
19	"(2) The reimbursement of transportation as
20	required under section 218A(b)(2).
21	"(3) The payment of wages required under sec-
22	tion $218A(b)(3)$ when due.
23	"(4) The benefits and material terms and con-
24	ditions of employment expressly provided in the job
25	offer described in section 218(a)(2), not including

- the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.
- 5 "(5) The guarantee of employment required 6 under section 218A(b)(4).
 - "(6) The motor vehicle safety requirements under section 218A(b)(5).
- 9 "(7) The prohibition of discrimination under 10 subsection (d)(2).
 - "(c) Private Right of Action.—
 - "(1) Mediation.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).
- 24 "(A) MEDIATION SERVICES.—The Federal
 25 Mediation and Conciliation Service shall be

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available to assist in resolving disputes arising under subsection (b) between H-2A workers and agricultural employers without charge to the parties.

"(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

"(C) AUTHORIZATION.—

"(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service \$500,000 for each fiscal year to carry out this section.

"(ii) Mediation.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such

appropriated funds when the funds are appropriated pursuant to this authorization,
such reimbursement to be credited to appropriations currently available at the time
of receipt.

"(2) Maintenance of civil action in district court by aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

"(3) ELECTION.—An H-2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

- 1 "(4) PREEMPTION OF STATE CONTRACT 2 RIGHTS.—Nothing in this Act shall be construed to 3 diminish the rights and remedies of an H-2A worker 4 under any other Federal or State law or regulation 5 or under any collective bargaining agreement, except 6 that no court or administrative action shall be avail-7 able under any State contract law to enforce the 8 rights created by this Act.
 - "(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.
 - "(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—
 - "(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

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1	"(B) Any civil action brought under this
2	section shall be subject to appeal as provided in
3	chapter 83 of title 28, United States Code.
4	"(7) Workers' compensation benefits; ex-
5	CLUSIVE REMEDY.—
6	"(A) Notwithstanding any other provision
7	of this section, where a State's workers' com-
8	pensation law is applicable and coverage is pro-
9	vided for an H–2A worker, the workers' com-
10	pensation benefits shall be the exclusive remedy
11	for the loss of such worker under this section
12	in the case of bodily injury or death in accord-
13	ance with such State's workers' compensation
14	law.
15	"(B) The exclusive remedy prescribed in
16	subparagraph (A) precludes the recovery under
17	paragraph (6) of actual damages for loss from
18	an injury or death but does not preclude other
19	equitable relief, except that such relief shall not
20	include back or front pay or in any manner, di-
21	rectly or indirectly, expand or otherwise alter or
22	affect—
23	"(i) a recovery under a State workers"
24	compensation law; or

1	"(ii) rights conferred under a S	tate
2	workers' compensation law.	

"(8) Tolling of statute of limitations.— If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H-2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H-2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

"(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and H–2A employer reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding,

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unless specifically provided otherwise in the settlement agreement.

"(10) Settlements.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

"(d) Discrimination Prohibited.—

"(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the em-

ployee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218

or 218A or any rule or regulation pertaining to ei-

5 ther of such sections.

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- "(2) Discrimination against H-2A work-Ers.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H-2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).
- 20 "(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE
 21 EMPLOYMENT.—The Secretary of Labor and the Sec22 retary shall establish a process under which an H–2A
 23 worker who files a complaint regarding a violation of sub24 section (d) and is otherwise eligible to remain and work
 25 in the United States may be allowed to seek other appro-

1 priate employment in the United States for a period not

2 to exceed the maximum period of stay authorized for such

3 nonimmigrant classification.

"(f) Role of Associations.—

"(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application
is filed by an association acting as its agent is fully
responsible for such application, and for complying
with the terms and conditions of sections 218 and
218A, as though the employer had filed the application itself. If such an employer is determined, under
this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor
determines that the association or other member
participated in, had knowledge, or reason to know,
of the violation, in which case the penalty shall be
invoked against the association or other association
member as well.

"(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines

- 1 that an association member or members participated
- 2 in or had knowledge, or reason to know of the viola-
- 3 tion, in which case the penalty shall be invoked
- 4 against the association member or members as well.
- 5 "DEFINITIONS
- 6 "Sec. 218D. For purposes of sections 218 through
- 7 218C:
- 8 "(1) AGRICULTURAL EMPLOYMENT.—The term
- 9 'agricultural employment' means any service or ac-
- tivity that is considered to be agricultural under sec-
- tion 3(f) of the Fair Labor Standards Act of 1938
- 12 (29 U.S.C. 203(f)) or agricultural labor under sec-
- tion 3121(g) of the Internal Revenue Code of 1986
- 14 (26 U.S.C. 3121(g)). For purposes of this para-
- graph, agricultural employment includes employment
- 16 under section 101(a)(15)(H)(ii)(a).
- 17 "(2) Bona fide union.—The term 'bona fide
- union' means any organization in which employees
- participate and which exists for the purpose of deal-
- ing with employers concerning grievances, labor dis-
- 21 putes, wages, rates of pay, hours of employment, or
- other terms and conditions of work for agricultural
- employees. Such term does not include an organiza-
- 24 tion formed, created, administered, supported, domi-
- 25 nated, financed, or controlled by an employer or em-
- 26 ployer association or its agents or representatives.

1	"(3) DISPLACE.—The term 'displace', in the
2	case of an application with respect to 1 or more H-
3	2A workers by an employer, means laying off a
4	United States worker from a job for which the H-
5	2A worker or workers is or are sought.
6	"(4) Eligible.—The term 'eligible', when used
7	with respect to an individual, means an individual
8	who is not an unauthorized alien (as defined in sec-
9	tion $274A(h)(3)$).
10	"(5) Employer.—The term 'employer' means
11	any person or entity, including any farm labor con-
12	tractor and any agricultural association, that em-
13	ploys workers in agricultural employment.
14	"(6) H-2A EMPLOYER.—The term 'H-2A em-
15	ployer' means an employer who seeks to hire 1 or
16	more nonimmigrant aliens described in section
17	101(a)(15)(H)(ii)(a).
18	"(7) H-2A WORKER.—The term 'H–2A worker'
19	means a nonimmigrant described in section
20	101(a)(15)(H)(ii)(a).
21	"(8) Job opportunity.—The term 'job oppor-
22	tunity' means a job opening for temporary full-time
23	employment at a place in the United States to which
24	United States workers can be referred.
25	"(9) Lays off.—

1	"(A) In general.—The term 'lays off',
2	with respect to a worker—
3	"(i) means to cause the worker's loss
4	of employment, other than through a dis-
5	charge for inadequate performance, viola-
6	tion of workplace rules, cause, voluntary
7	departure, voluntary retirement, contract
8	impossibility (as described in section
9	218A(b)(4)(D)), or temporary layoffs due
10	to weather, markets, or other temporary
11	conditions; but
12	"(ii) does not include any situation in
13	which the worker is offered, as an alter-
14	native to such loss of employment, a simi-
15	lar employment opportunity with the same
16	employer (or, in the case of a placement of
17	a worker with another employer under sec-
18	tion 218(b)(2)(E), with either employer de-
19	scribed in such section) at equivalent or
20	higher compensation and benefits than the
21	position from which the employee was dis-
22	charged, regardless of whether or not the
23	employee accepts the offer.
24	"(B) STATUTORY CONSTRUCTION.—Noth-
25	ing in this paragraph is intended to limit an

1	employee's rights under a collective bargaining
2	agreement or other employment contract.
3	"(10) REGULATORY DROUGHT.—The term 'reg-
4	ulatory drought' means a decision subsequent to the
5	filing of the application under section 218 by an en-
6	tity not under the control of the employer making
7	such filing which restricts the employer's access to
8	water for irrigation purposes and reduces or limits
9	the employer's ability to produce an agricultural
10	commodity, thereby reducing the need for labor.
11	"(11) Seasonal.—Labor is performed on a
12	'seasonal' basis if—
13	"(A) ordinarily, it pertains to or is of the
14	kind exclusively performed at certain seasons or
15	periods of the year; and
16	"(B) from its nature, it may not be contin-
17	uous or carried on throughout the year.
18	"(12) Secretary.—The term 'Secretary'
19	means the Secretary of Homeland Security.
20	"(13) Temporary.—A worker is employed on a
21	'temporary' basis where the employment is intended
22	not to exceed 10 months.
23	"(14) United States Worker.—The term
24	'United States worker' means any worker, whether
25	a United States citizen or national, a lawfully admit-

- 1 ted permanent resident alien, or any other alien,
- 2 who is authorized to work in the job opportunity
- within the United States, except an alien admitted
- 4 or otherwise provided status under section
- 5 101(a)(15)(H)(ii)(a).".
- 6 (b) Table of Contents of table of contents of
- 7 the Immigration and Nationality Act (8 U.S.C. 1101 et
- 8 seq.) is amended by striking the item relating to section
- 9 218 and inserting the following:

10 TITLE III—MISCELLANEOUS 11 PROVISIONS

- 12 SEC. 301. DETERMINATION AND USE OF USER FEES.
- 13 (a) Schedule of Fees.—The Secretary shall estab-
- 14 lish and periodically adjust a schedule of fees for the em-
- 15 ployment of aliens under this Act, and a collection process
- 16 for such fees from employers participating in the program
- 17 provided under this Act. Such fees shall be the only fees
- 18 chargeable to employers for services provided under this
- 19 Act.
- 20 (b) Determination of Schedule.—
- 21 (1) IN GENERAL.—The schedule under sub-
- section (a) shall reflect a fee rate based on the num-
- ber of job opportunities indicated in the employer's

[&]quot;Sec. 218. H–2A employer applications.

[&]quot;Sec. 218A. H-2A employment requirements.

[&]quot;Sec. 218B. Procedure for admission and extension of stay of H-2A workers.

[&]quot;Sec. 218C. Worker protections and labor standards enforcement.

[&]quot;Sec. 218D. Definitions.".

1 application under section 218 of the Immigration 2 and Nationality Act, as added by section 201 of this 3 Act, and sufficient to provide for the direct costs of 4 providing services related to an employer's author-5 ization to employ eligible aliens pursuant to this Act, 6 to include the certification of eligible employers, the 7 issuance of documentation, and the admission of eli-8 gible aliens.

(2) Procedure.—

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- (A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.
- (B) Publication and comment.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.
- 22 (c) USE OF PROCEEDS.—Notwithstanding any other 23 provision of law, all proceeds resulting from the payment 24 of the alien employment user fees shall be available with-25 out further appropriation and shall remain available with-

- 1 out fiscal year limitation to reimburse the Secretary, the
- 2 Secretary of State, and the Secretary of Labor for the
- 3 costs of carrying out sections 218 and 218B of the Immi-
- 4 gration and Nationality Act, as added by section 201 of
- 5 this Act, and the provisions of this Act.

6 SEC. 302. REGULATIONS.

- 7 (a) REGULATIONS OF THE SECRETARY.—The Sec-
- 8 retary shall consult with the Secretary of Labor and the
- 9 Secretary of Agriculture on all regulations to implement
- 10 the duties of the Secretary under this Act.
- 11 (b) Regulations of the Secretary of State.—
- 12 The Secretary of State shall consult with the Secretary,
- 13 the Secretary of Labor, and the Secretary of Agriculture
- 14 on all regulations to implement the duties of the Secretary
- 15 of State under this Act.
- 16 (c) Regulations of the Secretary of Labor.—
- 17 The Secretary of Labor shall consult with the Secretary
- 18 of Agriculture and the Secretary on all regulations to im-
- 19 plement the duties of the Secretary of Labor under this
- 20 Act.
- 21 (d) Deadline for Issuance of Regulations.—
- 22 All regulations to implement the duties of the Secretary,
- 23 the Secretary of State, and the Secretary of Labor created
- 24 under sections 218, 218A, 218B, and 218C of the Immi-
- 25 gration and Nationality Act, as added by section 201, shall

- 1 take effect on the effective date of section 201 and shall
- 2 be issued not later than 1 year after the date of enactment
- 3 of this Act.
- 4 SEC. 303. EFFECTIVE DATE.
- 5 (a) In General.—Except as otherwise provided, sec-
- 6 tions 201 and 301 shall take effect 1 year after the date
- 7 of enactment of this Act.
- 8 (b) Report.—Not later than 180 days after the date
- 9 of enactment of this Act, the Secretary shall prepare and
- 10 submit to the appropriate committees of Congress a report
- 11 that describes the measures being taken and the progress
- 12 made in implementing this Act.